

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the matters of)	
)	
Petition of Embarq Local Operating)	WC Docket No. 06-147
Companies for Forbearance Under)	
47 U.S.C. §160(c) From Application of)	
<i>Computer Inquiry</i> and Certain Title II)	
Common Carriage Requirements)	
)	
Petition of the Frontier and Citizens ILECs)	
for Forbearance Under Section 47 U.S.C.)	
§160(c) From Title II and <i>Computer Inquiry</i> Rules)	
With Respect to <i>Computer Inquiry</i> Rules With)	
Respect to Their Broadband Services)	

COMMENTS OF MONTANASKY.NET

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Attorney for MontanaSky.Net

MontanaSky.Net, by its counsel, respectfully submits the following comments in the above captioned proceeding:

MontanaSky.Net is an internet and telecommunications provider, that specializes in the provision of high speed internet and data services to business and residential customers in northwestern Montana. Many of MontanaSky.Net's service areas include sparsely populated rural areas, in which there is very limited telecommunications and internet competition.

MontanaSky.Net is opposed to the Petition filed by Frontier/Citizens in this matter. MontanaSky.Net does not believe it is appropriate to grant Frontier/Citizens any further regulatory flexibility for its broadband services.

Since the issuance of the FCC's DSL Order in September, 2005, MontanaSky.Net and Citizens have engaged in discussions to negotiate a contract for wholesale DSL services, as contemplated by the FCC's Order (FCC 05-150, Sept. 23, 2005). Although this Order allows detariffing of broadband services offered by telecommunications providers, it also contemplates that wholesale contracts would continue:

we expect that facilities-based wireline carriers will have business reasons to continue making broadband Internet access transmission services available to ISPs without regard to the Computer Inquiry requirements. . . . [¶64]

Incumbent LECs have represented that they not only intend to make broadband Internet access transmission offerings available to unaffiliated ISPs in a manner that meets ISPs' needs, but that they have business incentives to do so. [¶74]

We strongly encourage the parties to work together to develop individual contracts that are mutually beneficial to each party. [¶75]
FCC Order 05-150, ¶¶64, 74 and 75.

The Order contemplated that incumbent LECs would enter into such contracts during the one year transition period provided in the Order. (Order, ¶99).

Despite these provisions in the FCC Order, MontanaSky.Net has not been able to obtain a contract with Citizens, after months of negotiations. In January of this year, a “tentative” oral agreement was reached, but Citizens has failed to follow through with its oral representations or provide MontanaSky.Net with any written contract. We are now fast approaching the end of the one year transition period established by the Order, and it does not appear that Citizens will voluntarily enter into any written agreement for the provision of wholesale DSL.

Furthermore, contrary to the assertions in the Citizens/Frontier petition, “robust” broadband competition does not exist throughout the nation. In many sparsely populated rural areas, such as those areas served by Citizens and MontanaSky.net in northwestern Montana, the incumbent ILEC may be the only broadband service provider, or the only high quality broadband service provider. Under these circumstances, wholesale resale of the incumbent’s broadband DSL is critical to the existence of any viable competition.

Based on the above, MontanaSky.Net requests that the Petition by Citizens/Frontier either be deferred or rejected at this time, until and unless satisfactory contractual arrangements are finalized.

DATED: September 13, 2006

Respectfully Submitted,

/s/ Ivan C. Evilsizer

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CERTIFICATE OF SERVICE

I do hereby certify that, on the 13th day of September, 2006, I have caused the foregoing Comments of MontanaSky.Net to be 1) filed via ECFS with the Office of the Secretary of the FCC; 2) served via email on Ms. Janice Myles, Federal Communications Commission, Wireline Competition Bureau, Competition Policy Division at janice.myles@fcc.gov; and 3) served via email on the FCC's duplicating contractor Best Copy and Printing, Inc. at fcc@bcpiweb.com.

Dated September 13, 2006

/s/ Ivan C. Evilsizer
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